

FILED

2007 MAR 23 PM 12:44

CLERK U.S. DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA  
LOS ANGELES

BY

2:07mc3359-F

David S. Kupetz (CA Bar No. 125062)  
Email:dkupetz@sulmeyerlaw.com  
Marcus A. Tompkins (CA Bar No. 190922)  
Email:mtompkins@sulmeyerlaw.com  
**SulmeyerKupetz**  
A Professional Corporation  
333 South Hope Street, Thirty-Fifth Floor  
Los Angeles, California 90071-1406  
Telephone: 213.626.2311  
Facsimile: 213.629.4520

Attorneys for Robert A. Russell,  
an individual, Placer County Land  
Investors, LLC, a California limited  
liability company, and SVRB Investments,  
LLC, an Arizona limited liability  
company, Plaintiffs

UNITED STATES DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA

Robert A. Russell, an individual,  
Placer County Land Investors, LLC,  
a California limited liability company,  
and SVRB Investments, LLC, an  
Arizona limited liability company

Plaintiffs,

vs.

USA Investment Partners, LLC, a  
Nevada limited liability company,

Defendant.

~~CV 07-01925~~

Case No.

**EDCV07-0343**

SGL (JCR)

**COMPLAINT FOR BREACH OF  
ORAL CONTRACT, BREACH OF  
IMPLIED-IN-FACT CONTRACT,  
BREACH OF FIDUCIARY DUTY,  
APPOINTMENT OF A RECEIVER  
AND OTHER EQUITABLE RELIEF**

RECEIVED

2007 APR -2 A 10:38

DEBRA P. HACKETT, CLK  
U.S. DISTRICT COURT  
MIDDLE DISTRICT ALA

COPY

SulmeyerKupetz, A Professional Corporation  
333 SOUTH HOPE STREET, THIRTY-FIFTH FLOOR  
LOS ANGELES, CALIFORNIA 90071-1406  
TEL 213.626.2311 • FAX 213.629.4520

1 Plaintiffs, Robert A. Russell, an individual, Placer County Land  
 2 Investors, LLC, a California limited liability company, and SVRB Investments,  
 3 LLC, an Arizona limited liability company, allege:

#### 4 JURISDICTION AND VENUE

5 1. This Court has jurisdiction over this action pursuant to 28 U.S.C.  
 6 § 1332(a) as a result of the diversity of citizenship of the parties.

7 2. Venue in the United States District Court for the Central District  
 8 of California is proper under 28 U.S.C. § 1391(a)(2).

#### 9 THE PARTIES

10 3. **Plaintiff Placer County Land Investors, LLC** ("Placer"), is a  
 11 limited liability company organized under the laws of the State of California. The  
 12 members of Placer are USA Investment Partners, LLC ("USAIP"), Robert A.  
 13 Russell ("Russell"), and Land & Castle Investments, LLC ("L&CI"). USAIP owns  
 14 an 88% controlling membership interest in Placer. Russell owns a 10% membership  
 15 interest in Placer. L&CI owns a 2% membership interest in Placer. Russell has  
 16 been the manager of Placer. On March 20, 2007, Russell received a letter (the  
 17 "Removal Letter") from USAIP seeking to replace Russell as manager of Placer  
 18 with USAIP.

19 4. **Plaintiff SVRB Investments, LLC** ("SVRB"), is a limited  
 20 liability company organized under the laws of the State of Arizona. The members  
 21 of SVRB are USAIP and Russell. USAIP owns a 50% membership interest in  
 22 SVRB. Russell owns a 50% membership interest in SVRB. Russell is the manager  
 23 of SVRB.

24 5. **Plaintiff Robert A. Russell**, an individual, is a resident of the  
 25 State of Arizona.

26 6. **Defendant USA Investment Partners, LLC**, is a limited  
 27 liability company organized under the laws of the State of Nevada. The members of  
 28 USAIP are Thomas A. Hantges ("Hantges") and Joseph D. Milanowski

(“Milanowski”). Hantges owns a 57% membership interest in USAIP. Milanowski owns a 43% membership interest in USAIP. Milanowski is the manager of USAIP. Hantges and Malinowski are collectively referred to herein as the “Members”.

#### USAIP ENTERPRISE

7. The primary assets of USAIP are equity interests in entities that own real estate development projects in various stages of development, primarily located in California and substantially located within the judicial district of this Court.

8. Currently, entities affiliated with the members of USAIP are the subject of bankruptcy cases (the “Bankruptcy Cases”) pending in the United States Bankruptcy Court for the District of Nevada. These entities include USA Commercial Mortgage Company (“USACM”), USA Capital Realty Advisors, LLC (“USACRA”), USA Securities, LLC (“USAS”), USA Capital First Trust Deed Fund, (“First”), and USA Capital Diversified Trust Deed Fund, LLC (“Diversified”). Prior to the commencement of the Bankruptcy Cases, USAIP had received financial support in the way of transfers and loans from USACM and some of the related entities that are debtors in the Bankruptcy Cases.

9. The primary assets of USAIP include:

A. USAIP owns a 50% membership interest in Ashby USA, LLC (“Ashby”). Ashby is a limited liability company organized under the laws of the State of California. The manager of Ashby is Ashby Development. Ashby owns real property commonly known as Roripaugh Ranch. Roripaugh Ranch is an approximately 800-acre master planned development with approximately 1,800 lots located in the City of Temecula in southwest Riverside County, California. Plaintiffs understand and believe that the project is fully entitled with construction underway.

B. USAIP owns a 50% membership interest in Capital Land Investors, LLC (“CLI”) and Random Development, LLC (“RD”). CLI and RD are

1 limited liability companies organized under the laws of the State of California. The  
2 manager of CLI and RD is Jabral Investments, an entity organized under the laws of  
3 the State of California. CLI and RD own a real estate project commonly known as  
4 Stoneridge. Stoneridge is an approximately 640-acre master planned development  
5 with approximately 2,200 lots located in Riverside County, California. The  
6 Plaintiffs understand and believe that this project is currently in the entitlement  
7 process.

8 C. USAIP owns a 50% membership interest in Oak Mesa  
9 Investors, LLC ("OMI"), and Buffalo Land Development, LLC ("BLD"). The  
10 manager of OMI and BLD is Jabral Investments. OMI and BLD own a real estate  
11 project commonly known as Oak Valley. Oak Valley is an approximately 1,500-  
12 acre master planned development with approximately 3,000 lots located in  
13 Calimesa, California.

14 D. USAIP owns an 88% controlling interest in Placer County  
15 Land Investors, LLC, as a non-managing member. Russell is the manager of Placer  
16 and owns a 10% membership interest in Placer. Placer owns a real estate project  
17 consisting of approximately 325 acres located in Placer County, California. This  
18 property is planned for approximately 1,000 residential lots.

19 E. USAIP owns a 69% membership interest in HMA Sales,  
20 LLC ("HMA"). HMA is a limited liability company organized under the laws of the  
21 State of Nevada. HMA owned the Royal Hotel, a 228 room hotel located in on  
22 approximately 2.5 acres in Las Vegas, Nevada. Plaintiffs understand and believe  
23 that the Royal Hotel Property was sold for approximately \$29,000,000 pursuant to a  
24 transaction that closed in December, 2006.

25 F. USAIP owns a 55 $\frac{2}{3}$ % membership interest in Tanamera  
26 Properties, LLC ("Tanamera Properties"), a limited liability company organized  
27 under the laws of the State of Nevada. The other members of Tanamera Properties  
28 are DDH Financial ("DDH") and B&L Investment ("B&L"). The Manager of

1 Tanamera Properties is DDH. Tanamera Properties is an entity that is a holding  
2 company for several real estate development entities that own real property located  
3 in Nevada.

4 G. USAIP owns a 50% membership interest in Tanamera  
5 Residential Group ("Tanamera Homes"). Tanamera Homes is a name used by  
6 several entities that operate as a home building company.

7 H. USAIP owns a 70% membership interest in Bundy  
8 Canyon Land Development, LLC ("Bundy"). Bundy is a limited liability company  
9 organized under the laws of the State of California. Bundy owns approximately 175  
10 acres of real property between Murrieta, California and Lake Elsinore, California.

11 I. USAIP owns 100% of the membership interests in USA  
12 Investors VI, LLC ("Hotel Zoso"). Hotel Zoso is 165-room hotel property situated  
13 on 2.5 acres of leased land at 150 S. Indian Canyon Drive in Palm Springs,  
14 California. The Hotel Zoso property is currently under contract for sale. Plaintiffs  
15 are informed that, in December, 2006, the debtors in the Bankruptcy Cases filed an  
16 involuntary bankruptcy petition against Hotel Zoso.

17 J. USAIP owns a 55% membership interest in Phillips USA,  
18 LLC ("Phillips"). The Phillips Development Company, Inc. ("PDC"), owns a 45%  
19 membership interest in Phillips. PDC is the manager of Phillips. Plaintiff is  
20 informed and believes that Phillips has entered into agreements to purchase  
21 approximately 930 acres of real property located adjacent to the Ortega Highway  
22 between San Juan Capistrano, California, and Lake Elsinore, California.

23 K. USAIP owns a 50% membership interest in Opaque Land  
24 Development, LLC ("Opaque"). Unlimited Holdings, Inc. ("Unlimited"), owns the  
25 other 50% membership interest in Opaque. Unlimited is the managing member of  
26 Opaque. Opaque owns approximately 15 acres of commercial zoned real property  
27 located in southwest Las Vegas, Nevada.

28



1 L. USAIP owns a 50% membership interest in Cornman-  
2 Toltec, LLC ("Cornman"). Unlimited holds the other 50% membership interest in  
3 Cornman. Unlimited is the managing member of Cornman. Cornman owns 160  
4 acres of residential real property located in Casa Grande, Arizona.

5 M. USAIP owns a 50% membership interest in SVRB.  
6 SVRB owns approximately 24 acres of real property zoned for commercial-  
7 industrial use in the south part of Albuquerque, New Mexico.

8 N. USAIP owns 100% of the membership interests in Tree  
9 Moss, LLC ("Tree"). Tree is a limited liability company organized under the laws  
10 of the State of California. Tree owns a 101-room condominium project located on  
11 approximately 2.5 acres of leased real property at 140 S. Calle Encilia in Palm  
12 Springs, California. Plaintiffs are informed and believe that Tree entered into a  
13 Sales, Marketing, and Commission Agreement with a third-party to sell 63 units that  
14 it owns at the condominium project. Thereafter, the debtors in the Bankruptcy  
15 Cases filed an involuntary bankruptcy petition against Tree in or about December  
16 2006.

17 O. USAIP owns a 50% membership interest in Colt Gateway,  
18 LLC ("Colt"). The manager of Colt is America Holdings, Inc. Colt owns real  
19 property consisting of approximately 17 acres located in Hartford, Connecticut,  
20 where the former Colt Arms Manufacturing Plant was located.

21 P. USAIP owns a 50% membership interest in Happy Valley,  
22 LLC ("Happy"). Happy owns approximately 2 acres of real property located in  
23 Palm Springs, California.

24 Q. USAIP owns 100% of the membership interests in  
25 Haspinov, LLC ("Haspinov"). Haspinov owns real property located in Las Vegas,  
26 Nevada, upon which is situated on approximately 10,000 square foot office building  
27 leased to USACM.  
28

1 R. Plaintiffs are informed and believe that USAIP may hold  
2 equity or other interests in various entities not identified above owning real property  
3 and/or other assets.

4 **EXTREME AND EXTRAORDINARY CIRCUMSTANCES**

5 10. Hantges and Milanowski are the subject of an investigation  
6 requested by the United States Securities and Exchange Commission (the "SEC")  
7 and conducted by the Federal Bureau of Investigation (the "FBI") in connection  
8 with the business and operations of USAIP and various related entities.

9 11. USAIP has substantial liabilities under guarantees of loans made  
10 to entities in which USAIP holds a membership interest. USAIP is also obligated to  
11 Diversified pursuant to a loan that may amount to as much as \$75 million or more.  
12 This loan is secured by a general pledge of the membership interests held by  
13 USAIP.

14 12. Over the course of several years, the bulk of the capitalization for  
15 USAIP was provided by contributions from USACM. In May, 2006, to the  
16 detriment of other creditors of USAIP, including Plaintiffs, USAIP executed a  
17 promissory note in favor of USACM and entered a Security Agreement with  
18 USACM granting a security interest in a substantial portion of its assets to secure  
19 repayment of the promissory note. The amount of this secured claim is in excess of  
20 \$58,000,000.

21 13. USAIP is controlled by Hantges and Milanowski. The Members  
22 have admitted to Plaintiffs that during the pendency of the ongoing investigation by  
23 the SEC and/or the FBI relating to their activities, they have been and will continue  
24 to be precluded from effectively managing the operations of USAIP. Plaintiffs  
25 understand and believe that the investigation is ongoing.

26 14. On December 25, 2006, in the adversary proceeding titled USA  
27 Commercial Mortgage Company v. HMA Sales, LLC, Adversary No. 06-01256-  
28 LBR (the "Adversary Action"), brought in the United States Bankruptcy Court for

1 the District of Nevada related to the Bankruptcy Cases jointly administered under  
2 Case No. BK-S-06-10725 LBR, and pending in United States Bankruptcy Court for  
3 the District of Nevada, Las Vegas Division, the plaintiffs in the Adversary Action  
4 filed their Complaint for, inter alia, a Temporary Restraining Order ("TRO")  
5 relating to assets of USAIP, and for the appointment of a receiver for an entity  
6 (HMA Sales, LLC) 90% owned by USAIP.

7 15. On January 3, 2007, the Honorable Linda B. Riegle, United  
8 States Bankruptcy Judge in the jointly administered Bankruptcy Cases entered the  
9 TRO. Plaintiffs are informed and believe that the TRO remains in effect.

10 16. In their Fifth Claim for Relief contained in the complaint  
11 commencing the Adversary Action, the debtors in the Bankruptcy Cases requested  
12 the appointment of a receiver for a subsidiary of USAIP. Such relief could not be  
13 Ordered by Bankruptcy Judge Riegle since 11 U.S.C. § 105(b) provides that "a court  
14 may not appoint a receiver in a case under this title [the Bankruptcy Code]."

15 17. USAIP has significant unpaid, delinquent obligations, including  
16 those owing to Plaintiffs, and unperformed commitments, including those made to  
17 Plaintiffs.

18 18. Parties, including Plaintiffs, with claims against USAIP and/or  
19 with equity interests in entities in which USAIP also holds an equity interest face  
20 imminent and irreparable harm to their opportunity for recovery on their claims  
21 and/or equity interests.

22 19. The assets of USAIP are at risk as long as USAIP remains under  
23 the control of the Members.

24 20. USAIP is unable to effectively function and the assets of USAIP  
25 are diminishing in value as a result of the lack of any party currently in a position to  
26 control the direction and operations of USAIP.



21. Loans with respect to real estate development projects owned by entities in which USAIP holds membership interests, including entities in which Plaintiffs also hold membership interests, are delinquent.

22. The Removal Letter received by Placer from USAIP on March 20, 2007, threatens Placer with severe, immediate and irreparable harm.

23. With its Members under criminal investigation, USAIP is not capable of effectively managing Placer.

24. Unless control of USAIP is promptly removed from Milanowski and Hantges, Placer and all other creditors of USAIP are faced with severe, immediate and irreparable harm.

25. Parties, including Plaintiffs, with claims against USAIP and/or with equity interests in entities in which USAIP also holds an equity interest face imminent and irreparable harm to their opportunity for recovery on their claims and/or equity interests.

26. The assets of USAIP are at risk as long as USAIP remains under the control of the Members.

27. Various real estate development projects owned by entities in which USAIP owns membership interests, including those in which Plaintiffs also own membership interests, are in need of refinancing.

28. Lenders have advised Plaintiffs that they will not provide financing to any entity in which equity interests are held by an entity controlled by the Members.

29. In its current state, USAIP is unable to perform its obligations or meet its commitments to its creditors, including Plaintiffs.

#### **USAIP's COMMITMENTS AND OBLIGATIONS TO PLAINTIFFS**

30. USAIP made various commitments, promises and agreements to and with Russell and Placer, which they relied upon, and which USAIP has failed to

1 fulfill. In reliance on these promises, beginning in July 2005, Russell devoted no  
2 less than two days of my time per week to the Placer Development.

3 31. USAIP promised to reimburse all of Russell's expenses incurred  
4 in connection with the Placer Development. In reliance on this promise, Russell  
5 incurred expenses amounting to more than \$20,000 and USAIP has failed to  
6 reimburse Russell's expenses.

7 32. USAIP represented to Placer that it would ensure that the debt  
8 secured by the real property owned by Placer would be paid on a current basis and  
9 that all ongoing expenses connected with the real property would also be paid by  
10 USAIP. USAIP has failed to fulfill these promises.

11 33. The debt secured by the real property owed by Placer is in  
12 default, real estate taxes secured by the real property amounting to approximately  
13 \$290,000 are delinquent, and contributions owing to the Master Plan Association  
14 (the "Association") of which Placer is a member are delinquent in an amount  
15 exceeding \$500,000.

16 34. Placer relied on the promises of USAIP that it would fund all  
17 expenses on a current basis relating to the development of the real property owned  
18 by Placer in entering into various consulting arrangements with environmental  
19 engineers, wetlands engineers, civil engineers, and other consultants needed in order  
20 to develop the real property owned by Placer. USAIP has failed to fund the  
21 payments owing by Placer to these consultants and, as a result, the consultants have  
22 stopped work on the real property project owned by Placer and the development  
23 process has stalled. This has caused significant damage to Placer and poses an  
24 imminent threat to destroy the development process with regard to the real property  
25 owned by Placer.

26 35. The failure of USAIP to meet its commitments has placed Placer  
27 in dire financial straits and has left Placer facing imminent and irreparable harm.  
28

1           36. Loans secured by the real property owned by Placer are in  
2 default, interest is accruing at the default rate, and foreclosure proceedings may be  
3 imminent.

4           37. If the real estate taxes owing with regard to the real property  
5 owned by Placer are not brought current, the property will be eliminated from the  
6 overall 5,000 acre master development plan in which the Placer property is currently  
7 a participant. The County within which the Placer real property is located will not  
8 approve any plans if the taxes are not current and if Placer remains delinquent with  
9 regard to its contribution owing to the Association, it can be removed from the  
10 Association on that basis as well. If Placer is removed from the Association, then it  
11 is virtually assured that any development of the real property owned by Placer will  
12 be stalled for a period as long as seven to ten years and that the land will be forced  
13 to remain in its current state where it could only be used as farmland.

14           38. Having USAIP, under the control of Milanowski and Hantges, as  
15 the majority equity holder of Placer has precluded Placer from acquiring any  
16 substitute financing that would allow it to address these urgent issues.

17           39. Russell has suffered lost profits and other damages as a result of  
18 USAIP's failure to fulfill its promises, commitments and obligations and USAIP's  
19 breach of its fiduciary obligations with respect to Placer and SVRB in an amount in  
20 excess of \$5,000,000.

21           40. Placer has suffered lost profits and other damages, in an amount  
22 in excess of \$5,000,000, as a result of USAIP's failure to fulfill its promises,  
23 commitments and obligations and USAIP's breach of its fiduciary duty.

24           41. SVRB has suffered lost profits and other damages in an amount  
25 in excess of \$50,000,000 as a result of USAIP's failure to fulfill its promises,  
26 commitments and obligations and USAIP's breach of its fiduciary duty.

27

28

**FIRST CAUSE OF ACTION**

**(Breach of Oral Contract re Placer)**

42. Plaintiffs hereby incorporate by reference paragraphs 1 to 41 of the Complaint as though fully set forth herein.

43. USAIP has breached promises and commitments made to and agreements with Placer. These breaches have resulted in damages, lost profits and additional costs to Placer, in a total sum in excess of \$5,000,000.

**SECOND CAUSE OF ACTION**

**(Breach of Implied Contract re Placer)**

44. Plaintiffs hereby incorporate by reference paragraphs 1 to 43 of the Complaint as though fully set forth herein.

45. Based on the facts as set forth above, both Placer on the one side, and USAIP, on the other side, understood and agreed that USAIP was obligated to fund the Placer development, thus creating an implied-in-fact contract between the parties (the "Implied Placer Contract").

46. USAIP breached the implied Placer Contract. Said breach resulted in damages, lost profits and additional costs to Placer in the total sum in excess of \$5,000,000.

**THIRD CAUSE OF ACTION**

**(Breach of Oral Contract re SVRB)**

47. Plaintiffs hereby incorporate by reference paragraphs 1 to 46 of the Complaint as though fully set forth herein.

48. USAIP breached promises and commitments to and agreements with SVRB. These breaches resulted in damages, lost profits and additional costs to SVRB, in a total sum in excess of \$5,000,000.

SulmeyerKupetz, A Professional Corporation  
333 SOUTH HOPE STREET, THIRTY-FIFTH FLOOR  
LOS ANGELES, CALIFORNIA 90071-1406  
TEL 213.626.2311 • FAX 213.629.4520

**FOURTH CAUSE OF ACTION**

**(Breach of Implied SVRB Contract)**

49. Plaintiffs hereby incorporate by reference paragraphs 1 to 48 of the Complaint as though fully set forth herein.

50. Based on the facts as set forth above, both SVRB on the one side, and USAIP, on the other side, understood and agreed that USAIP was obligated to fund the SVRB development, thus creating an implied-in-fact contract between the parties (the "Implied SVRB Contract").

51. USAIP breached the Implied SVRB Contract. Said breach resulted in damages, lost profits and additional costs to SVRB in a total sum exceeding \$5,000,000.

**FIFTH CAUSE OF ACTION**

**(Breach of Oral Contract re Russell)**

52. Plaintiffs hereby incorporate by reference paragraphs 1 to 51 of the Complaint as though fully set forth herein.

53. USAIP breached promises and commitments to and agreements with Russell. These breaches results in damages, lost profits and additional costs to Russell in an amount in excess of \$5,000,000.

**SIXTH CAUSE OF ACTION**

**(Breach of Implied Russell Contract)**

54. Plaintiffs hereby incorporate by reference paragraphs 1 to 53 of the Complaint as though fully set forth herein.

55. Based on the facts set forth above, both Russell on the one side, and USAIP, on the other side, understood and agreed that USAIP was obligated to fund the development of the Placer and SVRB projects and to reimburse Russell for his expenses incurred in connection with said projects, thus creating an implied-in-contract between the parties (the "Implied Russell Contract").



1           56. USAIP breached the Implied Russell Contract. Said breach  
2 resulted in damages, lost profits and additional costs to Russell in a total sum  
3 exceeding \$5,000,000.

4  
5                           **SEVENTH CAUSE OF ACTION**

6                           **(Breach of Fiduciary Duty Owed to Placer)**

7           57. Plaintiffs hereby incorporate by reference paragraphs 1 to 41 of  
8 the Complaint as though fully set forth herein.

9           58. USAIP owed a fiduciary duty to Placer. USAIP breached said  
10 duty. As a direct result of USAIP's breach of its fiduciary duty owing to Placer,  
11 Placer has suffered lost profits, expenses, and other damages in an amount in excess  
12 of \$5,000,000.

13  
14                           **EIGHTH CAUSE OF ACTION**

15                           **(Breach of Fiduciary Duty Owed to SVRB)**

16           59. Plaintiffs hereby incorporate by reference paragraphs 1 to 41 of  
17 the Complaint as though fully set forth herein.

18           60. USAIP owed a fiduciary duty to SVRB. USAIP breached said  
19 duty. As a direct result of USAIP's breach of its fiduciary duty owing to SVRB,  
20 SVRB has suffered lost profits, expenses, and other damages in an amount in excess  
21 of \$5,000,000.

22  
23                           **NINTH CAUSE OF ACTION**

24                           **(Breach of Fiduciary Duty Owed to Russell)**

25           61. Plaintiffs hereby incorporate by reference paragraphs 1 to 41 of  
26 the Complaint as fully set forth herein.

27           62. USAIP owed a fiduciary duty to Russell. USAIP breached said  
28 duty. As a direct result of USAIP's breach of its fiduciary duty owing to Russell,

1 Russell has suffered lost profits, expenses, and other damages in an amount in  
2 excess of \$5,000,000.

3 **TENTH CAUSE OF ACTION**

4 **(Appointment of a Receiver and other Injunctive Relief)**

5 63. Plaintiffs hereby incorporate by reference paragraphs 1 to 41 of  
6 the Complaint as fully set forth herein.

7 64. The appointment of a receiver for USAIP is appropriate and  
8 necessary to preserve and protect the assets of USAIP and the opportunity for  
9 recovery for creditors of USAIP.

10 65. Injunctive relief connected with the appointment of a receiver for  
11 USAIP should be granted in order to protect Plaintiffs and other creditors of USAIP  
12 and parties with equity interests in entities in which USAIP also holds an equity  
13 interest from real, immediate and irreparable harm to their opportunity for recovery  
14 on their claims and/or the preservation and protection of the value of their equity  
15 interests.

16 **WHEREFORE**, Plaintiffs pray for judgment against USAIP as  
17 follows:

18 1. For compensatory damages owing to Placer for breach of  
19 contract, breach of implied-in-fact contract, and breach of fiduciary duty in the sum  
20 of not less than \$5,000,000;

21 2. For compensatory damages owing to SVRB for breach of  
22 contract, breach of implied-in-fact contract, and breach of fiduciary duty in the sum  
23 of not less than \$5,000,000;

24 3. For compensatory damages owing to Russell for breach of  
25 contract, breach of implied-in-fact contract, and breach of fiduciary duty in the sum  
26 of not less than \$5,000,000;

27 4. For the appointment of a receiver for USAIP and the granting of  
28 associated injunctive relief;

- 1 5. For interest on compensatory damages as provided by law;
- 2 6. For costs of suit, including reasonable attorneys' fees; and
- 3 7. For such other and further relief as the Court deems just and
- 4 proper.

5  
6 DATED: March 23, 2007

Respectfully submitted,

7 **SulmeyerKupetz**  
8 A Professional Corporation

9  
10 By: 

11 David S. Kupetz  
12 Attorneys for Robert A. Russell, an  
13 individual, Placer County Land Investors,  
14 LLC, a California limited liability  
15 company, and SVRB Investments, LLC,  
16 an Arizona limited liability company,  
17 Plaintiffs  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

SulmeyerKupetz, A Professional Corporation  
333 SOUTH HOPE STREET, THIRTY-FIFTH FLOOR  
LOS ANGELES, CALIFORNIA 90071-1406  
TEL. 213.626.2311 • FAX 213.629.4520

SERVICE LIST

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

VIA E-MAIL OR ELECTRONIC TRANSMISSION

Counsel for USA Investment Partners, LLC,  
Joseph D. Milanowski, and Thomas A. Hantges  
Russell Walker, Esq.  
Woodbury & Kesler  
265 East 100 South, Suite 300  
Salt Lake City, Utah 84110-3358  
Email Address: rwalker@woodburykesler.com

Counsel for USA Investment Partners, LLC  
and Joseph D. Milanowski  
Dough Griffith, Esq.  
Kesler & Rust McIntyre  
Bldg. 2nd Floor  
68 S. Main Street  
Salt Lake City, Utah 84101  
Email Address: dgriffith@kessler-rust.com

Counsel for USA Investment Partners, LLC  
and Joseph D. Milanowski  
Kenneth M. Breen, Esq.  
Fulbright & Jaworski, LLP  
666 Fifth Avenue, 31st Floor  
New York, New York 10103-3198  
Email Address: kbreen@fulbright.com

VIA TELECOPIER

Counsel for Thomas A. Hantges  
David Chesnoff, Esq.  
Chesnoff & Schonfeld, APC  
520 South Fourth Street  
Las Vegas, Nevada 89101-6593  
Telephone Number: (702) 384-5563  
Fax Number: (702) 598-1425

SulmeyerKupetz, A Professional Corporation  
333 SOUTH HOPE STREET, THIRTY-FIFTH FLOOR  
LOS ANGELES, CALIFORNIA 90071-1406  
TEL. 213.626.2311 • FAX 213.629.4520

(JCRx), DISCOVERY

**U.S. District Court  
CENTRAL DISTRICT OF CALIFORNIA (Eastern Division - Riverside)  
CIVIL DOCKET FOR CASE #: 5:07-cv-00343-SGL-JCR**

Robert A. Russell et al v. USA Investment Partners LLC  
Assigned to: Judge Stephen G. Larson  
Referred to: Magistrate Judge John Charles Rayburn, Jr  
Demand: \$5,000,000  
Cause: 28:1332 Diversity-Breach of Contract

Date Filed: 03/23/2007  
Jury Demand: None  
Nature of Suit: 190 Contract: Other  
Jurisdiction: Diversity

**Plaintiff**

**Robert A Russell**  
*an individual*

represented by **David S Kupetz**  
SulmeyerKupetz  
333 S Hope St, 35th Fl  
Los Angeles, CA 90071  
213-626-2311  
Fax: 213-629-4520  
*LEAD ATTORNEY*  
*ATTORNEY TO BE NOTICED*

**Marcus Adrian Tompkins**  
Sulmeyer Kupetz  
333 S Hopte Street, 35th Floor  
Los Angeles, CA 90071-1406  
213-626-2311  
*LEAD ATTORNEY*  
*ATTORNEY TO BE NOTICED*

**Plaintiff**

**Placer County Land Investors LLC**  
*a California limited liability company*

represented by **David S Kupetz**  
(See above for address)  
*LEAD ATTORNEY*  
*ATTORNEY TO BE NOTICED*

**Marcus Adrian Tompkins**  
(See above for address)  
*LEAD ATTORNEY*  
*ATTORNEY TO BE NOTICED*

**Plaintiff**

**SVRB Investors LLC**  
*an Arizona limited liability company*

represented by **David S Kupetz**  
(See above for address)  
*LEAD ATTORNEY*  
*ATTORNEY TO BE NOTICED*

**Marcus Adrian Tompkins**



(See above for address)  
**LEAD ATTORNEY**  
**ATTORNEY TO BE NOTICED**

V.

**Movant**

**USA Capital Diversified Trust Deed  
Fund  
LLC**

represented by **Jeffery D Hermann**  
Orrick Herrington & Sutcliffe  
777 S Figueroa Street, Suite 3200  
Los Angeles, CA 90017  
213-612-2020  
**LEAD ATTORNEY**  
**ATTORNEY TO BE NOTICED**

**Marc A Levinson**  
Orrick Herrington and Sutcliffe  
400 Capitol Mall, Suite 3000  
Sacramento, CA 95814-4497  
916-447-9200  
**LEAD ATTORNEY**  
**ATTORNEY TO BE NOTICED**

**Movant**

**USACM Liquidating Trust**

represented by **Jeffery D Hermann**  
(See above for address)  
**LEAD ATTORNEY**  
**ATTORNEY TO BE NOTICED**

**Marc A Levinson**  
(See above for address)  
**LEAD ATTORNEY**  
**ATTORNEY TO BE NOTICED**

V.

**Defendant**

**USA Investment Partners LLC**  
*a Nevada limited liability company*

Date Filed	#	Docket Text
03/23/2007	1	COMPLAINT against defendant USA Investment Partners LLC.(Filing fee \$ 350)filed by plaintiff Robert A Russell, Placer County Land Investors LLC, SVRB Investors LLC.(am, ) (Entered: 03/27/2007)
03/23/2007		FAX number for Attorney David S Kupetz, Marcus Adrian Tompkins is 213-629-4520. (am, ) (Entered: 03/27/2007)

03/23/2007		20 Day Summons Issued re Complaint - (Discovery)[1] as to USA Investment Partners LLC. (am, ) (Entered: 03/27/2007)
03/23/2007	2	CERTIFICATION of Interested Parties filed by Plaintiffs Robert A Russell, Placer County Land Investors LLC, SVRB Investors LLC. (am, ) (Entered: 03/27/2007)
03/23/2007	3	NOTICE of Pendency of Other Actions or Proceedings filed by plaintiffs Robert A Russell, Placer County Land Investors LLC, SVRB Investors LLC. (am, ) (Entered: 03/27/2007)
03/26/2007	4	EX PARTE APPLICATION for Appointment of Temporary Receiver; Temporary Restraining Order, Other equitable Relief, and Order to Show Cause why a permanent receiver should not be appointed and a Preliminary Injunction Should not be issue; Memorandum of points and authorities filed by plaintiffs Robert A Russell, Placer County Land Investors LLC, SVRB Investors LLC. Lodged Proposed Order. (am, ) (Entered: 03/27/2007)
03/26/2007	5	DECLARATION of Richard A. Block re EX PARTE APPLICATION for Appointment of Temporary Receiver; Temporary Restraining Order, Other equitable Relief, and Order to Show Cause why a permanent receiver should not be appointed and a Preliminary Injunction Should not be issue[4] filed by plaintiffs Robert A Russell, Placer County Land Investors LLC, SVRB Investors LLC. (am, ) (Entered: 03/27/2007)
03/26/2007	6	DECLARATION of Robert A. Russell in support of EX PARTE APPLICATION for Appointment of Temporary Receiver; Temporary Restraining Order, Other equitable Relief, and Order to Show Cause why a permanent receiver should not be appointed and a Preliminary Injunction Should not be issue [4] filed by plaintiffs Robert A Russell, Placer County Land Investors LLC, SVRB Investors LLC. (am, ) (Entered: 03/27/2007)
03/26/2007	7	DECLARATION of Jordan Wirsz in support of EX PARTE APPLICATION for Appointment of Temporary Receiver; Temporary Restraining Order, Other equitable Relief, and Order to Show Cause why a permanent receiver should not be appointed and a Preliminary Injunction Should not be issue[4] filed by plaintiffs Robert A Russell, Placer County Land Investors LLC, SVRB Investors LLC. (am, ) (Entered: 03/27/2007)
03/26/2007	8	STATEMENT of of Opposing Counsel's Position re EX PARTE APPLICATION for Appointment of Temporary Receiver; Temporary Restraining Order, Other equitable Relief, and Order to Show Cause why a permanent receiver should not be appointed and a Preliminary Injunction Should not be issue[4] filed by plaintiffs Robert A Russell, Placer County Land Investors LLC, SVRB Investors LLC. (am, ) (Entered: 03/27/2007)
03/27/2007	9	STANDING ORDER by Judge Stephen G. Larson,(am, ) (Entered: 03/28/2007)

03/27/2007	12	DECLARATION of Non-Objection to EX PARTE APPLICATION for Appointment of Temporary Receiver; Temporary Restraining Order, Other equitable Relief, and Order to Show Cause why a permanent receiver should not be appointed and a Preliminary Injunction Should not be issue[4] filed by defendant USA Investment Partners LLC. (am, ) (Entered: 03/29/2007)
03/28/2007	10	ORDER by Judge Stephen G. Larson GRANTING EX PARTE APPLICATION for Appointment of Temporary Receiver; Temporary Restraining Order, Other equitable Relief, and Order to Show Cause a Preliminary Injunction Should not be issue and a permanent receiver should not be appointed [4]: Show Cause Hearing set for 4/4/2007 at 01:30 PM before Judge Stephen G. Larson.(am, ) (Entered: 03/28/2007)
03/28/2007	11	DECLARATION of David A. Fogg in support of EX PARTE APPLICATION Appointment of Receiver[4] filed by plaintiffs Robert A Russell, Placer County Land Investors LLC, SVRB Investors LLC. (am, ) (Entered: 03/29/2007)
03/29/2007	14	APPLICATION for Hearing on Shortened Time for Emergency Motion for Modification of Order Appointing Receiver to Allow for Involuntary Bankruptcy Petition to be filed against USAIP filed by movant USA Capital Diversified Trust Deed Fund, USACM Liquidating Trust. Lodged order. (mrgo, ) (Entered: 04/02/2007)
03/29/2007		FAX number for Attorney Jeffery D Hermann is 213-612-2499. (mrgo, ) (Entered: 04/02/2007)
03/29/2007		FAX number for Attorney Marc A Levinson is 916-329-4900. (mrgo, ) (Entered: 04/02/2007)
03/30/2007	13	ORDER by Judge Stephen G. Larson granting Application for Hearing on Shortened Time for Emergency Motion for Modification of Order Appointing Receiver to Allow for Involuntary Bankruptcy Petition to be filed against USAIP. Motion set for hearing on 4/4/2007 at 01:30 PM before Judge Stephen G. Larson. Any opposition shall be due on 4/3/07. (see document for specifics)(mrgo, ) (Entered: 04/02/2007)

PACER Service Center			
Transaction Receipt			
04/02/2007 10:37:07			
PACER Login:	us4894	Client Code:	
Description:	Docket Report	Search Criteria:	5:07-cv-00343-SGL-JCR
Billable Pages:	3	Cost:	0.24